REMARKS

Reconsideration of this application is respectfully requested in view of the foregoing amendment and the following remarks.

Claims 1-13 remain pending in this application. Claim 1 has been amended to re-insert the word "taxes" into the claim. That word was inadvertently deleted in the prior amendment. For the reasons set forth below, Applicant respectfully submits that all of the pending claims are in condition for allowance.

In the Office Action, claims 1-3 and 6-13 were rejected under 35 U.S.C. §102(e) as being anticipated by Davis (U.S. Patent Pub. No. 2001/0049612), and claims 4 and 5 were rejected under 35 U.S.C. §103(a) as being unpatentable over Davis in view of Examiner's Official Notice. To the extent these grounds of rejection might again be applied to the claims presently pending in this application, they are respectfully traversed.

Applicant notes that in an anticipation rejection under 35 U.S.C. §102, the cited reference must teach every element of the claim. MPEP §2131. "The **identical** invention must be shown in as complete detail as is contained in the ... claim" (emphasis added). *Richardson v. Suzuki Motor Co.*, 868 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989).

Regarding the prior art rejection based on Davis, Applicant notes that the presently claimed invention is related to a methodology or system that, in the first instance, provides a tangible benefit to an employee who is still living. More specifically, claim 1, for example, recites that an employee is identified and an individual or group life insurance policy is purchased on his behalf. Then, the employee is, as recited in the last paragraph of claim 1, "allowed...to borrow funds accumulated in said individual or group life insurance policy" up to a set limit. Because borrowed money is not considered income for income tax purposes, the employee receives a tangible income tax benefit during his own lifetime.

Davis, in contrast, is focused, not on employee benefits, but rather on survivor's benefits. See, e.g., the title of the Davis reference ("Survivor's Benefit Plan") as well as paragraph [0031] (reviewing existing plans "to determine the amount of **survivor's benefits** currently owing to the

employee") (emphasis added). Those skilled in the art recognize that (a) "survivor benefits" and (b) benefits accruing to or available to a still-living employee are two completely different things.

Moreover, as indicated in paragraph [0052] of Davis, a focus of Davis' methodology is to ensure that an employee does not have "incidents of employee ownership" in a life insurance policy. If there are such incidents of employee ownership, then the proceeds of the life insurance policy are subject to estate tax. Paragraph [0051] of Davis identifies "(6) obtain a policy loan" as indicative of an incident of ownership of an insurance policy, and thus a transaction to avoid.

In contrast, a central component of the methodology of the claimed invention is having an employee obtain a loan ("allowing said employee to borrow funds").

Thus, there are clear distinctions between the methodology described in the Davis reference and the claimed invention: (1) survivor's benefits versus employee benefits, on the one hand, and (2) avoiding loans versus allowing an employee to obtain a loan/borrow funds, on the other hand.

Moreover, claim 1, for example, recites that the amount that an employee can borrow is limited to "a limit set forth in an endorsement." Since a fundamental principle of Davis is to avoid incidents of ownership of a life insurance policy, there would be no reason why an endorsement would be executed in Davis that limits the amount an employee can borrow. Under Davis' methodology, an employee never has the option of borrowing against the insurance policy in the first place.

Thus, Davis is clearly deficient in disclosing, teaching or suggesting a methodology that reduces income tax for an employee **AND** that allows the employee to borrow funds accumulated in a life insurance policy, let alone that the amount to be borrowed is limited by a "limit set forth in an endorsement," where said limit reflects a level of compensation according to a deferred compensation plan. In fact, Davis clearly teaches away from the claimed features of the present invention by emphasizing that incidents of ownership are to be avoided, including the transaction of obtaining a loan. Again, obtaining a loan (i.e., allowing the employee to "borrow funds") is an express requirement of the pending claims in this application.

Further, Applicant takes issue with the rejection, based on Davis, of previously-added claims 12 and 13. Those claims require, e.g., "allowing said employ**er** to borrow funds accumulated in said individual or group life insurance policy" (emphasis added). Paragraph [0051] of Davis is cited against claims 12 and 13. However, that paragraph says absolutely nothing about the rights of an employ**er**. Paragraph [0051] of Davis describes incidents of ownership of insurance in connection with an employ**ee**, and how such ownership will cause the insurance benefit to be subject to estate taxation, i.e., taxation of the estate of the employ**ee**. Thus, contrary to the assertion made in the Office Action, Davis does not disclose anything having to do with an employ**er**'s right to borrow against an insurance policy, let alone in the context of also allowing an employee to borrow against that same policy.

In sum, Davis is focused on survivor's benefits, whereas the claims of the present application recite subject matter directed to benefits for employees and employers. Benefits for survivors and benefits for employees and employers are, of course, totally different benefits.

Because, for at least the reasons set forth above, Davis fails to disclose or even to suggest limitations expressly recited in the independent claims, as well as the limitations of at least dependent claims 12 and 13, Applicant respectfully urges that the §102 and §103 rejections based on Davis be reconsidered and withdrawn.

In view of the foregoing all of the claims in this case are believed to be in condition for allowance. Should the Examiner have any questions or determine that any further action is desirable to place this application in even better condition for issue, the Examiner is encouraged to telephone Applicants' undersigned representative at the number listed below.

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Respectfully submitted by:

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